

CHECKLIST GUIDANCE

This checklist was developed to assist HUD's Demolition\Disposition Processing Centers to review a public housing authority's (HA) application for demolition and/or disposition of a development or a portion of a development. Wherever, feasible the HA should submit one application per development. Following the checklist carefully should help ensure that the HA has met the regulatory requirements found in 24 CFR Part 970. ¹

The application, following the regulation, should be developed covering the following:

Description of property

- o Normally this section is straight forward and easily responded to by the HAs. A site map is critical in examining partial demolition requests. However, the HA should be sure and describe the number of buildings and units, and total acres for the entire development. This is critical baseline information for the Processing Center.
- o Estimate of Debt. The Processing Center or Field Office will obtain the estimate of remaining development and modernization debt, if any, from the Office of Finance and Accounting (OFA). However, if the HA has information on modernization or development debt or that debt has been forgiven, those facts should be included in the application.
- o Appraisal - a copy of the appraisal should be included in the application. This requirement is for a Disposition and Demolition and Disposition applications only.
- o Proceeds of Sale, Disposition. The HA should give an estimate of gross and net proceeds of sale and specify how the proceeds will be used if the HA

¹ The CFR revised as of April 1, 1995, contains all the changes from the final regulation published in the Federal Register on January 18, 1995, and effective on February 17, 1995. It should be noted that HUD Handbook 7476.1, the Public Housing Demolition, Disposition, Conversion Handbook, has been cancelled.

anticipates funds after paying the debt and/or related expenses (e.g., relocation, sales costs, etc.) Where the HA has proceeds after payment of debt, those proceeds are to be used for the provision of housing assistance to low-income families, e.g., the modernization of another development or building low-income housing. The activities proposed should generally relate to housing services and should be approvable under the Comprehensive Improvement Assistance Program (CIAP) and the Comprehensive Grant Program.

Description of Specific Action and Timetable

HAs frequently fail to clarify the specific action for which they are seeking HUD approval. The application should contain at a minimum the following:

- o specification of the type of action (i.e., a) demolition, (b) disposition or (c) demolition and disposition.
- o the number of dwelling units and buildings proposed for demolition or disposition; in the case of nondwelling structures the building number or name e.g., the maintenance building etc., and the total number of acres to be sold;
- o the bedroom composition of the units proposed for demolition or disposition;
- o the HA must specify the addresses, and/or building numbers so that HUD knows what precisely is proposed for demolition or disposition;
- o method of disposition (e.g., public bid or negotiated sale; at fair market value (FMR) or at less than the fair market value;
- o if the sale is a negotiated sale or a sale at less than the fair market value, the HA must provide a written explanation of the commensurate public benefit for approving such an action. In the case of a negotiated sale the HA must identify the agency to whom the development will be sold. See § 970.9(a) of the regulation.
- o an explanation if the HA plans demolition prior to

disposition showing that it is cost-effective;

- o a brief timetable giving the year of each of the major actions e.g., anticipated date of: HUD approval of the action; relocation of residents; selection of site or acquisition of property; demolition or disposition of the property; beginning and completion of new construction; and units occupied;
- o source of funding (e.g., modernization, vacancy reduction, etc.) for the demolition or disposition and estimated amount of funds needed.

Justification of Demolition or Disposition

Applicable Criteria for demolition are Section 970.6 and for disposition Section 970.7.

- o HAS that use Section 970.6(a) " ... the project, or portion of the project, is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes and no reasonable program of modifications, is feasible to return the project or portion of the project to useful life.", must provide documentation for meeting both parts of the test, obsolescence and infeasibility or rehabilitation.
- o The HA must provide evidence of obsolescence. For example, is there a structural problem with the building (as substantiated by an engineering report), an environmental issue related to hazardous substances, or since the project was built has the highway surrounded the area removing access to public transportation, schools or, or has the neighborhood changed with more commercial activity. In addition, to proving obsolescence, the HA must demonstrate that rehabilitation is not feasible. The application should include a presentation of the cost of rehabilitation which is to be compared with the cost guidelines for that development (i.e, 90 percent of TDC).
- o A HA using Section 970.7(a)(2): "disposition will allow the acquisition, development or rehabilitation of other properties that will be more efficiently or effectively operated as lower

income housing projects,...", is expected to pay for replacement housing out of the proceeds of sale.² An HA must either yield sufficient amount from the sale to replace each unit sold or the disposition must result in the same number of low-income dwelling units in the community. This particular justification is not tied to the one-for-one replacement requirement which is currently suspended.

Replacement Housing Plan Section 970.11

- o The Rescissions Act signed by the President on July 27, 1995, included a suspension of the requirement for one-for-one replacement for public housing agencies (HA) with applications for demolition or disposition approved on, or before September 30, 1995. The Omnibus Consolidated Rescissions and Appropriations Act of 1996, signed by the President on April 26, 1996, included a continuation of that suspension through September 30, 1996. Therefore, an HA is not required to provide for replacement housing and the Department is under no obligation to provide the replacement housing requested in a demolition or disposition application.
- o Processing Centers are not to review HAs Replacement Housing Plans for compliance with Section 18 and 24 CFR Part 970. However, the HAs recommendation for replacement housing, if any, are to be thoroughly described in the memorandum to the Field Office and specified in the IBS demolition\disposition module.

Relocation Plan

- o If units proposed for demolition are vacant, the HA should clearly explain in the application why the units are vacant, when the residents were relocated, the resources provided, and where the residents were relocated to.
- o The HA must determine with the help of HUD staff

² We have at least three examples of HAs meeting this criterion, Yolo County Housing Authority for disposition of Ferguson and Sparkman Courts; the Alexandria Housing Authority for disposition of Cameron Valley and Iowa City Housing Authority for the disposition of 18 units.

whether the Uniform Relocation Act is triggered by this action. The application must contain a certification that the HA will comply with the URA, the implementing regulation found at 49 CFR part 24, and the requirements of §970.5. (See §970.5 (h)).

- o Vouchers and certificates can be for used for relocation assistance, along with other public housing. In Fiscal Year 1996, the Department is issuing a funding notice for Section 8 which sets out categories of funding. The funds will be provided for relocation and replacement housing on a first come first serve basis and not through a competition.

Resident Consultation - 24 CFR 970.8(b)

- o The regulation requires general resident consultation, however, it does not specific how the consultation should be done. The method of consultation is therefore, at the HA's discretion.
- o The application should document that the HA contacted both the resident organization at the affected development (i.e., the development where the demolition or disposition is proposed), as well as the HA-wide resident organization. Many HAs mistakenly think that since the 24 CFR 970.13 (i.e., the Section 412 requirement) relating to the right to purchase property proposed for demolition or disposition is limited to the resident organization at the development, general resident consultation is likewise limited. Not true.
- o The HA must submit any written comments made by residents or resident organizations, in addition to the HA's summary of comments and its response to resident comments. In the past many HAs have failed to provide HUD with copies of the resident comments or an explanation that there were no comments received.

Offer to Resident Organization ³ (Section 412)

³ This requirement is often referred to as the 412 requirement, because it was established by Section 412 of the Cranston-Gonzalez National Affordable Housing Act of 1990.

- o It is required that property proposed for demolition or disposition be offered to the resident organization at the affected development. (N.B. The HA is no longer required to offer the property to the HA-wide resident organization.) Section 970.13 of the final regulation includes a modified version of the Federal Register Notice of October 1992.
- o The regulation does allow for exceptions to this opportunity to offer. The HA should review the list of six exceptions, identified in §970.13(a)(2), to determine if the requirement to make an offer to the resident organization is applicable. HAs are required to provide documentation e.g., if the property has been condemned by the city, a copy of the condemnation order.
- o An application submitted to the Department should include one of the following:
 - a copy of the letter to the resident organization and the resident organization's letter of negative response.
 - a certification from the Executive Director or Board that there is no resident organization, including evidence that the residents were given an opportunity to form (45 days) and expressed no interest.
 - an explanation of why this action should be exempt from the Section 412 requirements (see Section 970.13(a)(2), and evidence as required in the regulation.
 - a certification from the Executive Director or Board stating that the resident organization was contacted and the 30-day time frame expired without response from the organization.

Resolutions, Certifications and Assurances

- o A copy of the resolution by the Board of Commissioners of the Housing Authority supporting the HA's submission of the demolition\disposition application. This is a general requirement for demolition and for disposition.
- o Assurances in the relocation plan that no demolition or disposition will take place until residents have been relocated to decent, safe, sanitary housing. (24 CFR

970.11 (g))

- o Certification that the HA will comply with the Uniform Relocation Act, the implementing regulation, and §970.5(h)(1) in conducting relocation of residents. This is a general requirement applicable to demolition and disposition applications alike.

Revisions to the Application

- o Where an HA substantially revises the application during the time of HUD review, it may be required to redo resident consultation, the offer to the resident organization and the Board of Commissioners resolution. For example, if an HA decided to change the proposed action from demolition to disposition, or changes the building, or the specific units proposed for demolition or disposition, the resident consultation, the offer to the resident organization and the Board of Commissioners resolution would need to be redone.